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General Assembly

Seventy-second session

Official Records

37th plenary meeting
Monday, 30 October 2017, 3 p.m.
New York

President: Mr. Lajčák ..... (Slovakia)

In the absence of the President, Mr. Perera (Sri Lanka), Vice-President, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 76 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/72/349)

Reports of the Secretary-General (A/72/342, A/72/372 and A/71/372/Corr.1)

Draft resolution (A/72/L.3)

Mr. Mohamed (Sudan) (*spoke in Arabic*): With regard to the matter under discussion, I would like to state that combating impunity is inarguably a noble objective as we strive to attain justice. We support this intention and are working to achieve it within the framework of the United Nations. Achieving justice is the primary responsibility of relevant national judicial bodies, in accordance with their domestic mandates and jurisdictions.

While we are deliberating on the report (see A/72/349) of the International Criminal Court (ICC), we should like to recall that the relationship between the United Nations and the ICC should take into account the separate and independent nature of the two bodies and the absence of an organic or structural link between them. It is a source of great concern that some States parties to the Rome Statute are attempting to make the General Assembly into a General Assembly for the States Parties to the Rome Statute.

In rejecting this trend, which is made crystal-clear in the annual periodic draft resolution on the ICC report (A/72/L.3), my delegation is expressing its decisive and clear-cut opposition to it. Time and again, the draft resolution's sponsors propose numerous new paragraphs to advance loose interpretations that do not reflect the letter and spirit of the Relationship Agreement, but rather improperly advance the distinct and transparent objective of empowering a Court that claims to be independent and characterized by the specificity of its jurisdiction.

In the light of a Statute that proposes a legal framework for the Court, we in the Sudan have constantly expressed our position in the informal meetings on the draft resolution on the report of the Court and will continue to do so. Furthermore, we call for abiding by the scope and framework of the relations between the United Nations and the Court, with no expansion or excessively broad interpretation of the relationship.

The relationship should therefore continue without any attempt by the Court to lay claim to universality. The mandate of the United Nations, its agencies and organs is clear, and any attempt to deviate from it will sidetrack the Organization from its goals and modus operandi, while also seriously endangering it and its activities, given the lack of consensus about the Court and the Rome Statute.

The relationship between the ICC and the Security Council is a flagrant form of politicization of the Court's work. There should be no link between a judicial organ supposedly meant to administer international justice

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and a political organ that is influenced by political interests, when it is that organ that refers certain countries' situations to the Court and spares other countries from having to appear before the Court. This reflects the conflict between justice and the rule of law.

The report of the Secretary-General on the relationship between the United Nations and the International Criminal Court (A/72/342) should respect the letter and the spirit of the Relationship Agreement without trying to integrate the International Criminal Court into the United Nations system. This runs counter to the nature and the scope of the Relationship Agreement. We are concerned about the ICC's interference in the work of the Secretariat and the Court's attempts to direct Secretariat staff in their dealings with Member States, which merely expect reports from the Secretariat on respect for their rights.

The work of the Court and of the administrative system is not within the bounds of the law, which reflects the Court's willingness to gain legitimacy by any possible means, which is a flawed and weak approach, not only because of its contradictory Statute but also owing to the corrupt and nepotistic practices at work within the Court. The Court is undermining international law as it is in breach of numerous international treaties, in particular the Vienna Convention on the Law of Treaties of 1969 and the Vienna Convention on Diplomatic Relations of 1961. Further, in terms of immunity, the Rome Statute runs counter to international law. The fact that the Court does not have recourse to transitional justice, which violates the principles of peace and reconciliation, is a contradiction that in the end fuels wars and disputes in Africa. The Statute's articles give full authority to the Prosecutor to preside over national prosecutions, and the Prosecutor can withdraw the right to investigate. We therefore have nothing to do with the Court and call on all States to reconsider the Statute and the contradictory practices to which it gives rise.

The report of the International Criminal Court before the Assembly today states that, since the Statute came into force 15 years ago, the Court has considered only 25 cases, of which only five have been completed. We all wish to prevent heinous crimes and to combat impunity, but at this rate, how can that be achieved? It certainly cannot be done through the politicization of justice and the use of double standards.

I would like to add that the Court's foremost flaw is how it has paved the way for voluntary contributions to its budget. Donations, including from civil-society organizations and individuals, fund the majority of the Court's budget today, and it is well known that the European Union (EU) underwrites the lion's share thereof. Now, when the observer of the European Union refers only to African States in the examples from the Court he cites (see A/72/PV.36), is that a coincidence? That is the question. For us, it is clearly not a coincidence. Otherwise, the EU observer would have also mentioned cases of States before the Court pursuant to sub-articles (a) and (c) of article 13 of the Rome Statute, and not just those referred to the Court by the Security Council under Chapter VII of the Charter, as he did. In addition, the States whose situations have been referred to the ICC are both African States. I need not say more.

We know that the Court was founded mainly to respond to humankind's suffering resulting from the crime of aggression — the worst international crime. The suffering that led directly to the establishment of the Court, as some speakers before me have mentioned, was first addressed in 1947, two years after the end of the Second World War and its tragedies, which were unprecedented in human history, at which time the General Assembly agreed in principle to develop a system of international justice. Our issue is not to respond to it politically or diplomatically but as a matter of conscience. The question is whether we will one day see the Prosecutor of the ICC agree to investigate one of the States mentioned by the EU this morning. Will the Security Council one day refer a case to the ICC without recourse to article 13 (b) of the Rome Statute? This is the ethical and legal question to which we need a response.

Mr. Giacomelli Da Silva (Brazil) (*spoke in Spanish*): At the outset, I would like to thank the International Criminal Court (ICC) for its report to the General Assembly (see A/72/349) and congratulate it on its contribution to the fight against impunity and for promoting respect for the rule of law. I also join speakers before me in expressing my thanks to the President of the ICC, Judge Silvia Fernández de Gurmendi, for presenting the report and for her efforts aimed at making the Court a more effective institution. As this is her last time participating in the work of the General Assembly in that capacity, Brazil takes this opportunity to thank her for her long-standing commitment to the causes of human rights and international criminal justice.

(*spoke in English*)

As a proud founder of the ICC, Brazil is pleased to see that the Court continues to gain strength as the first permanent tribunal established to help to end impunity for the most serious international crimes. As an instrument for ensuring that those accused before it are judged with fairness and full respect for their rights, the ICC is a vehicle for justice and peace.

I am pleased to recall not only that all South American countries are parties to the Rome Statute but also that Latin American and Caribbean States represent the second-largest regional group among States parties, the first being the Group of African States. It is important to stress that any misperception of bias or selectivity in the Court's activity will be definitively dispelled only by advancing the universality of the Rome Statute, thereby expanding the Court's room to operate. This is particularly relevant when one considers that, so far, a number of important international actors are not yet parties to the Statute.

As for the outcomes of the 2010 Kampala Review Conference, the activation of the amendments regarding the crime of aggression in 2017 will represent a major contribution to completing the international criminal justice system. It will give additional meaning to the prohibition of the use of force, thereby fostering a more stable, just and democratic world order.

The workload of the Court continues to increase significantly. In this context, I recall my delegation's concern regarding the financing of Security Council referrals. This issue is structural in nature and lies at the very core of the relationship between the Court and the United Nations, particularly the General Assembly.

Once again, we reiterate our call for implementation of article 13 of the Relationship Agreement and of article 115 (b) of the Rome Statute, which provide guidance in the sense that such costs should be met — at least partially — by funds provided by the United Nations and not fall solely upon the parties to the Rome Statute. It is equally important to highlight that, as laid out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the budget of the Organization. The proper funding of Security Council referrals would enhance the credibility of both the Court and the United Nations. To date, the budget allocated for the Court in relation to these referrals amount to approximately €58 million, but the current situation is neither fair nor sustainable.

The report of the International Criminal Court contains a number of recommendations aimed at improving the relationship between the Security Council and the Court. Brazil concurs with the assessment that a more structured dialogue between them on issues of mutual interest — both thematic and situation-specific — would be beneficial. Through its jurisprudence, the Court has accumulated significant knowledge on issues such as children and armed conflict, women and peace and security, and the protection of cultural property.

Cooperation between the Security Council sanctions committees could also be improved, especially with regard to travel bans and the freezing of assets. Brazil also notes that certain United Nations peacekeeping operations have been providing the Court with much-needed support in the field, always in accordance with their mandate and basic principles.

Brazil notes with appreciation that providing justice for victims remains an essential component of the daily work of the Court. We welcome the reparations procedures that are ongoing in different cases and the fact that the Trust Fund for Victims has assisted more than 450,000 persons with physical and psychological rehabilitation as well as with material support. We commend efforts to enhance the protection of witnesses, including through relocation agreements, and we stress the positive role of cooperation through strengthening national capacities.

The quest for peace and justice is always challenging, and this challenge is inherent to the search for a more just and cooperative world order. Let us not fall into the trap of operating with false dichotomies that seem to oppose peace to justice and sovereignty to accountability. We should instead focus on the shared values that bring the General Assembly together and which have made the first permanent, treaty-based International Criminal Court a reality. Brazil remains firm in its commitment to the Rome Statute and the cause of justice that motivated its creation.

Ms. Krasa (Cyprus): It is a privilege to address the General Assembly. My delegation aligns itself with the statement delivered by the observer of the European Union (see A/72/PV.36) and would like to deliver some additional remarks.

It is our strong conviction that the International Criminal Court (ICC) contributes greatly to the overall goal of the United Nations of working towards a more peaceful and just world, thereby serving the purposes and principles of the Charter of the United Nations. The Court continues to rely on the indispensable support of the United Nations and of individual Member States. As foreseen by the architects of the Rome Statute system, such support is crucial to its ability to fulfil its mandate. In this respect, we support the further strengthening of the relationship between the United Nations and the Court in order to adjust to new and emerging common challenges.

We warmly thank President Fernández de Gurmendi for presenting the report of the Court (see A/72/349). As the report reflects, the Court had yet another full year in terms of judicial proceedings, investigations, preliminary examinations and institutional developments. We welcome the significant progress made with regard to reparations for victims.

We are especially pleased to note that the Governments of the Gambia and South Africa have rescinded their notifications of withdrawal, and we regret that the withdrawal of Burundi has come into effect. We are further pleased to note that Argentina, Chile, the Netherlands and Portugal notified their consent to be bound by the amendments on the crime of aggression. We look forward to the next Assembly of States Parties for the Court's jurisdiction over the crime of aggression to be activated, in accordance with the consensus decision reached at the Kampala Review Conference, thereby fully realizing the Rome Statute as originally drafted.

Cyprus is pleased to have served from October 2013 until the end of 2016 as a focal point for the promotion of universality of the Rome Statute. It remains committed to the collective responsibility of all State parties towards this end. We firmly believe that universal ratification is the only way to effectively address jurisdictional gaps and other current challenges and shortcomings. We would take this opportunity to call upon all States not yet parties to the Rome Statute to ratify it. Within this framework, in July, our Foreign Minister joined the President of the Assembly of States Parties and other Foreign Ministers in a video campaign promoting ratification.

Cyprus appreciates the Court's important mandate in ensuring accountability for the war crime of the destruction of cultural property. The protection of cultural heritage was one of the priorities of our recent chairmanship of the Committee of Ministers of the Council of Europe, which culminated in the conclusion of the Nicosia Convention on Offences related to Cultural Property, which was opened for signature in May. The Office of the Prosecutor of the ICC participated in two events that took place under the auspices of the Cyprus chairmanship, in Strasbourg and New York in January and February, respectively, and which focused on strengthening the international legal framework for the protection of cultural heritage. Moreover, our Permanent Mission in New York is currently preparing the launch of an informal group of friends for cultural-heritage protection, which will take a multifaceted approach thereto, including using the international criminal justice angle, by supporting existing initiatives, resolutions and relevant organizations.

In closing, my delegation would like to reiterate its commitment to and unequivocal support for the Court. At the same time, we express our readiness to engage in a constructive dialogue with States parties and States non-parties alike. We remain committed to the consolidation and reinforcement of international criminal justice and are pleased that the Court fully recognizes its own responsibility in terms of continuously improving its operations and increasing its efficiency and effectiveness.

Mr. García Reyes (Guatemala) (*spoke in Spanish*): Guatemala thanks the President of the International Criminal Court for the annual report of the Court on its activities in 2016 and 2017 (see A/72/349). We also welcome the publication by the United Nations of the manual of best practices for cooperation between the United Nations and the International Criminal Court, which has contributed to further strengthening cooperation between the two institutions. We cannot miss this opportunity to thank and congratulate Judge Fernández de Gurmendi for her years of dedication to the Criminal Court.

We know that the support and cooperation of the senior management of the United Nations regarding the Court are of the utmost importance, as is the active participation of the current Secretary-General and his team. We hope that such cooperation is maintained, since it is through that type of actions that the work of the Court can be strengthened and demonstrate its crucial performance at the international level.

We have noted and welcomed the information according to which the Court continues to explore opportunities to increase its working collaboration with its main United Nations partners, through, inter alia, regular round-table meetings between the United Nations and the Court to discuss practical cooperation arrangements, best practices, lessons learned and new challenges. For that reason, my delegation awaits with interest the next meeting, expected to take place this December.

Let me recall that in October 2012, when Guatemala assumed the presidency of the Security Council, it convened an open debate (see S/PV.6849), considering that structured dialogue between the Court and the Council on issues of common interest, as well as on issues regarding specific situations, could and can improve compliance with the obligations created through the referrals by the Council and contribute to the fight against impunity.

We know that the Court and the Security Council have different functions, but we consider them complementary with regard to addressing the most serious crimes of concern to the entire international community, as outlined in the Rome Statute. Therefore, we believe that it is necessary to increase cooperation between the Court and the Security Council in order to unite efforts and contribute to the prevention of such crimes, which undermine peace and security. Additionally, it is necessary to encourage efforts to combat impunity for such crimes. We believe that it is opportune to maintain periodic exchanges between the Council and the Court, independently of the informative meetings on the referred situations.

Cooperation is one of the fundamental pillars on which the proper functioning of the Court rests. Therefore, the firm commitment of States parties is crucial for increasing the capacity of the Court so as to ensure accountability for crimes commited, bring about justice and provide reparations to victims, as well as to help prevent future crimes of this sort, in accordance with the spirit of the Rome Statute.

In order to better adapt to the new challenges facing the United Nations and the Court, the States parties to the Rome Statute and the membership of the United Nations should strive to strengthen their cooperation and continually reaffirm the relevance and importance of international criminal justice in order to ensure the rule of law and maintain international peace and security.

In that vein, we cannot forget to mention the important draft resolution contained in document A/72/L.3, which the General Assembly will vote on today, and which my delegation co-sponsored. It highlights that the International Criminal Court is an independent permanent judicial institution, which, by the adoption of its Statute, has a unique historical significance. Having said that, we call upon the United Nations membership to approve the draft resolution, since it promotes the vital role that the Organization plays in international peace and justice, and thus to again cooperate with the International Criminal Court.

Mr. Jürgenson (Estonia): Estonia aligns itself with the statement delivered by the observer of the European Union (see A/72/PV.36)

We thank President Fernández de Gurmendi for her report (see A/72/349) and her ongoing service to the International Criminal Court (ICC). We welcome the opportunity for continued dialogue to discuss the contributions of the Court and the international community to international criminal justice. It is in our common interests to identify challenges, reflect on possible solutions and find practical ways to advance accountability for the most serious crimes committed.

We note the steady increase in the Court's workload. The Court is currently dealing with more cases and situations than ever, covering now most of the regions of the world. We acknowledge the Court's first decision to authorize an investigation of crimes in Europe, specifically in Georgia, demonstrating that no perpetrator can expect impunity for the most serious international crimes, regardless of where they occur. The increasing number of cases and situations also demonstrates that many States entrust their hopes for justice and accountability to the Court. That is testimony to the good work that the Court has done.

We note the important judicial developments that we have seen in the past year. We acknowledge specifically the judgment in the case of *Bemba et al.*, concerning the situation in the Central African Republic, and the start of the trial in the case of Dominic Ongwen. Those cases importantly express the Court's intolerance towards sexual violence as a tactic of war and its commitment to hold accountable those committing those acts. We also acknowledge the Court's first conviction for crimes related to the destruction of cultural heritage and the

first conviction for offences against the administration of justice relating to witness tampering.

However, the increasing workload also creates challenges for the Court to remain efficient and effective. Therefore, we encourage the Court to further streamline its administrative and judicial processes and make more efficient use of its resources. We also encourage the Court to continue exploring the possibilities of using new technologies and developing and implementing meaningful performance indicators in order to improve efficiency.

In order for the Court to perform its mandate efficiently, effective national and Security Council cooperation is crucial. We note with concern that arrest warrants are outstanding for 15 individuals and that last year the Court again had to deliver decisions finding failure by a State to comply with its obligations to cooperate with the Court. It is regrettable that since 2009, Omar Al-Bashir has still not been arrested and surrendered to the Court. We call upon all States and the Security Council to take appropriate action to fully cooperate with the Court and bring those perpetrators to justice in order to end impunity.

The ICC is the only permanent international court established in order to put an end to impunity for the perpetrators of the most serious crimes of international concern, and thus to contribute to the prevention of such crimes as well as to the progressive development of international criminal law. Now, as we reach the twentieth anniversary of the Court, it is high time to make full use of the international justice that the Rome Statute offers.

The international community already agreed, in 1998, that the Court should also have jurisdiction over the crime of aggression. With 34 States parties already having ratified the Kampala amendments on the crime of aggression, we look forward to a decision to activate the relevant Court jurisdiction during the sixteenth session of the Assembly of States Parties to the Rome Statute, to be held here in New York in December. While acknowledging the different interpretations of some legal provisions, we should not forget the main message that civilized countries have agreed upon, namely, that aggression is never acceptable. We should have confidence in international law and its fair and impartial application by the ICC.

Estonia is a long-standing supporter of the ICC. We consider that the fight against impunity for the most serious crimes is critical to ensure a fair and just society, by holding perpetrators accountable and ensuring justice for victims. The existence of the ICC is a clear message that the crimes specified in the Rome Statute will not be tolerated and will not go unpunished.

Mrs. Carnal (Switzerland) (*spoke in French*): Preventing wars and safeguarding peace are the foremost objectives of the United Nations. The Charter stipulates that Members shall refrain in their international relations from the threat or use of force. That provision is one of the most fundamental rules of the international legal order, yet it has proved difficult to translate those words into action. Armed conflicts between States remain a sad reality.

This year States parties to the Rome Statute of the International Criminal Court (ICC) have an opportunity to strengthen the application of the prohibition of the use of force. At the upcoming session of the Assembly of States Parties they will decide on the activation of the Court's jurisdiction on the crime of aggression. That crime covers acts of aggression that amount to a manifest violation of the Charter of the United Nations. Punishing that crime could contribute to avoiding and sanctioning extreme forms of wars of aggression.

The activation of the jurisdiction of the Court is in the core interest of the United Nations and its Member States. The Security Council will have an additional instrument in its toolbox. It will be able to demand that an aggressor back down, or else refer the situation to the ICC. States would benefit from enhanced protection, as aggressive leaders would fear prosecution and punishment for acts of aggression.

The definition of the crime of aggression has been discussed for decades. In 2010 in Kampala, States parties to the Rome Statute reached a clear compromise and adopted it by consensus. It would be a mistake to bring that compromise into question now. Rather, more than 70 years after the judgments delivered at Nuremberg and Tokyo, it is high time to make acts of aggression a punishable crime. Switzerland therefore calls upon all States parties to the Rome Statute to support the simple activation of the jurisdiction, in accordance with the consensual outcome reached in Kampala.

Earlier this year, the Secretary-General highlighted that the ICC and the United Nations both strive to maintain international peace and security and to ensure that the rule of law prevails. Indeed, the Court makes it possible to pursue a broad set of objectives of the United

Nations and its Member States. That holds particularly true for Sustainable Development Goal 16. Given its deterrent effect and ability to deal with the past, the ICC complements the work of national judicial systems and actors in the rule of law at the international level. Switzerland therefore welcomes the fact that the Court works closely with States and the United Nations, as shown in this year's report of the Court (see A/72/349).

Regrettably, atrocity crimes are often committed outside the jurisdiction of the ICC. The inability of the Court to act in such situations is a stark reminder of the need to continue promoting the universality of the Rome Statute. Switzerland strongly regrets Burundi's withdrawal from the Statute and encourages the Government to reconsider that decision. In contrast, we welcome the decisions of South Africa and the Gambia to remain States parties. Switzerland calls on all States that have not yet done so to join the Rome Statute. Only a universal International Criminal Court can act as a safety net to ensure justice for victims all over the world.

Ms. Carrión (Uruguay) (*spoke in Spanish*): Uruguay expresses its gratitude for the excellent report of the International Criminal Court (see A/72/349), as well as to its President, Ms. Silvia Fernández de Gurmendi, for the clarity with which she presented it (see A/72/PV.36). It is important to note that the Court received 4,725 applications during the reporting period.

The Court represents a milestone in the international community's fight against impunity and the commission of the most serious crimes against humankind and the integrity and rights of persons. The development of international awareness of the need to end atrocities against human beings, both individuals and groups, and to maintain international peace and security were the reason for the establishment of the International Criminal Court. Abuses and acts of violence, failure to respect international humanitarian law, slavery and many other atrocity crimes must cease, and the International Criminal Court, through its latent judgment, exercises a certain degree of control over those crimes.

The importance of the Court's establishment and the mission for which it is responsible leads us to support all actions that would improve its management. In that regard, we remind States parties to the Rome Statute of the need to cooperate with the Court so as to enable it to perform its duties. Furthermore, we urge States to become parties to the Statute by ratifying it and its amendments.

Uruguay is convinced that cooperation among States and with the Court is fundamental for the fulfilment of the Court's objectives and for it to be able to put an end to impunity for those who commit the heinous acts classified in the Statute of the Court.

Uruguay recognizes the efforts the Court is undertaking, as set out by its President, to improve its procedures and performance. The Court, having been established only a short time ago, requires the full cooperation of States in its proceedings going forward, including through cooperation, the provision of information, compliance with the measures requested, insight and support for the conduct and completion of proceedings.

We need to bear in mind the work, independence and impartiality of the judges and of the Court as a whole. We must also remember that the Court plays a role subsidiary and complementary to that of national jurisdictions. In that regard, States are responsible for implementing the law and assuming the primary jurisdiction that is theirs. The Statute clearly sets out that the Court may not act while proceedings are under way in the territory of a State party, suspending its activity in such cases. The Rome Conference, in adopting the Statute and in establishing and defining the crimes to which it would apply, helped codify the development of international law, which has led, and should continue to lead, States to incorporate those norms in their respective legislations.

For Uruguay, the fight against crimes against humankind, war crimes, genocide and aggression is of the utmost importance. We therefore also consider important the activation of the Court's jurisdiction over the crime of aggression. We would like to reiterate that accountability for the commission of such grave crimes, no matter who committed them, must continue to be a priority objective for the international community. Strengthening the work of the Court is therefore essential. In that connection, I would like to remind the Assembly that Uruguay, in its support for the work of the Court, has put forward an excellent candidate for judge in Ms. Ariela Peralta.

Mr. Kyslytsya (Ukraine): Ukraine aligns itself with the statement delivered by the observer of the European Union (see A/72/PV.36). We would like to add a few remarks in our national capacity.

We welcome the presentation by President Fernández de Gurmendi (see A/72/PV.36), and we support the activities of the International Criminal Court (ICC), which has proved its efficiency by promoting the rule of law and putting an end to impunity for perpetrators of the most serious crimes.

Following our decision to accept the jurisdiction of the Court, we cooperate closely with the Office of the Prosecutor, whose representatives visited Ukraine twice during the reporting period. We commend the continuation of the examination of the situation in Ukraine by the ICC. We particularly appreciate the preliminary conclusions by the Office of the Prosecutor stating that the international armed conflict between Ukraine and the Russian Federation began when Russia deployed its armed forces in parts of the Ukrainian territory and that the law of international armed conflict continues to apply to the ongoing state of occupation.

With regard to eastern Ukraine, the Office is undertaking a detailed factual and legal analysis of the Russian authorities' ongoing support for the illegal armed groups. Such support includes equipment, financing and personnel, as well as general direction in planning the actions of the illegal armed groups in a manner that indicates exercise of genuine control over them. Apparently it is due to this that the Russian Federation decided not to become a party to the Rome Statute, which it had previously signed.

In that connection, we would like to recall that the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation, recognized by resolution 71/205, and Russia's illegal actions in Donbas represent acts of aggression. We welcome the ratification of the Kampala amendments on the crime of aggression by 34 States parties. We look forward to a decision of the Assembly of States Parties to activate the Court's jurisdiction in this matter in the coming months.

While recognizing the importance of the promotion of universal participation in the Rome Statute, we support all efforts aimed at raising awareness and understanding of the functioning of the Court. Moreover, in order to ensure the universality of the Court's jurisdiction, we need to promote close cooperation by States as a direct response to crimes under the Rome Statute.

We know how difficult it is to bring those responsible for the most serious crimes to justice, owing to a lack of cooperation with the ICC. In that regard, we are convinced that the international community must enhance its support to ICC efforts to combat impunity and ensure the right to justice for all victims of such crimes.

Ukraine actively participated in the Preparatory Committee on the Establishment of an International Criminal Court. In 2000, Ukraine signed the Rome Statute, and my country was the first State not party to ratify the Agreement on Privileges and Immunities of the International Criminal Court. The Ukrainian Parliament's adoption of a constitutional amendment last year paved the way for the ratification of the Rome Statute. All of the relevant State authorities are actively involved in developing implementing legislation to that end.

In conclusion, I would like to emphasize again the importance of cooperation by States that are not parties to the Rome Statute, the United Nations and other international and regional stakeholders with the ICC to enable it to carry out its activities.

Finally, yet importantly, Ukraine, as in previous years, co-sponsored a draft resolution (A/72/L.3) prepared and introduced by Mexico this morning (see A/72/PV.36). We believe that its adoption by consensus will demonstrate our common strong support for the ICC and our determination to fight against impunity and thereby contribute to the prevention of the most serious crimes.

Mr. Ly (Senegal) (*spoke in French*): I would like to warmly thank Ms. Silvia Fernández de Gurmendi, President of the International Criminal Court, for her leadership at the head of the Court and for presenting the report on its work (see A/72/349). Under her presidency, the Court will have made enormous progress in streamlining its work and improving the effectiveness of that work. As she presents her final report as President of the Court, she can be proud of the great work she has accomplished with great rigour, professionalism, independence and courtesy throughout the years. She has the eternal gratitude of States parties, victims and the whole of humankind. I would also like to pay tribute to all those who, within the Court and elsewhere, commit themselves on a daily basis to ensuring that victims of mass crimes have the right to justice. Senegal remains convinced that a world of peace and stability means justice for all and reiterates its commitment to work with all stakeholders to that end.

The consideration of the report of the International Criminal Court today reflects the importance of that institution in the global fight against impunity and in respect for the rule of law. The work of the Court during the period under consideration does indeed show that the first and only permanent international court in charge of prosecuting mass crimes makes a significant contribution to delivering justice to millions of victims around the world and has given affected populations the feeling that all of humankind has heard their cries.

There can be no more eloquent testimony than the record of 25 cases that have come before the Court to date. The Office of the Prosecutor has conducted 10 preliminary examinations all over the world, in addition to the active phase of reparations undertaken by the Trust Fund for Victims. All that leads me to say that, slowly but surely and irreversibly, the universality of international criminal justice is making progress. Senegal invites all States to provide the necessary assistance and cooperation to the Court so that it can continue to fulfil its mandate in an optimal manner.

On 8 December 2014, three years ago, at the time of his election as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Mr. Sidiki Kaba — then Minister for Justice, now Minister for Foreign Affairs of Senegal — called for us to rise to the challenge of cooperation, universality, complementarity and strengthening relations among States parties. Actions and steps forward have been taken in that direction, but we must admit that we have many challenges yet to overcome. Nonetheless, by demonstrating our resolve and determination in combining our efforts, we can arrive at our goal.

Together we will work towards ever-closer cross-cutting, multilateral and multifaceted cooperation that is constantly being strengthened to win the fight against impunity and build a more peaceful, prosperous and fairer world. Together, we will work for the universal ratification of the Rome Statute and for the integration of those norms into the domestic law of States so that all victims throughout the world, wherever they live, have an equal and fair chance of obtaining justice. Together, we will work towards complementarity by strengthening national judicial systems so that they can judge even the most serious crimes that strike our collective conscience, to ensure that peace reigns. Together, we will work to breathe new momentum into the relations between the Court and all regions of the world, particularly Africa, through a frank and constructive dialogue in the Assembly of States Parties.

As the great philosopher Kierkegaard said, "It is not the path which is the difficulty; rather, it is the difficulty which is the path." Let us never forget that it is through difficult situations that we inscribe the greatest causes of humankind.

Mr. Muhammad Bande (Nigeria): My delegation is grateful to the President of the International Criminal Court (ICC) for the report (see A/72/349) introduced for consideration today. We applaud the Court for its ability to cope with the heavy workload during the reporting period.

The ICC was created based on the notion that impunity must be challenged and that persons found guilty of committing serious crimes must be punished. We therefore welcome the appreciable progress recorded by the Court in the fight against impunity and crimes against humanity. We commend the Court for its significant contributions to the development of substantive and procedural international criminal law. We also appreciate the essential contributions of the Court to the promotion of the rule of law.

We have studied the report closely and observed that, since the start of its operations, the Court has opened a total of 25 cases and conducted investigations in 10 situations: the Central African Republic I and II, Côte d'Ivoire, Darfur in the Sudan, the Democratic Republic of the Congo, Georgia, Kenya, Libya, Mali and Uganda. In addition to its investigations, the Office of the Prosecutor is conducting 10 preliminary examinations in some countries, among which is Nigeria.

As indicated in the report, the Office of the Prosecutor analysed information on a variety of crimes allegedly committed in different contexts, including alleged sexual and gender-based crimes in the armed conflict between Boko Haram and the Nigerian security forces. The Office has also gathered information on Nigerian national proceedings relating to eight potential cases identified by the Office and has exonerated Nigeria of the allegations arising from the 2011 elections. Nigeria will continue to support the ICC as it continues its preliminary examination process. Recently, we had the honour to welcome the chief Prosecutor of the ICC. We appreciate the Prosecutor's meetings with civil-society organizations and victims of alleged Rome Statute crimes committed in Nigeria.

We congratulate the Court for the successful handling of its first case involving the destruction of cultural property, namely, attacks on historic monuments in Timbuktu, Mali, which was the Court's first case involving an admission of guilt by the accused. That will serve as a good precedent for the Court in handling similar cases.

Nigeria joins other Member States in commending the decisions of the Gambia and South Africa to return to the Court. As a committed member of the Assembly of States Parties to the Rome Statute of the International Criminal Court, we wish to reaffirm our commitment to the Court and the fight against impunity for Rome Statute crimes. We also believe that the Court represents an international mechanism for ensuring justice for all.

Nigeria wishes to emphasize that it has no intention of pulling out of the ICC. However, we will continue to work in concert with States parties of the ICC towards improving the working methods of the Court for a fairer and more efficient delivery of its mandate in the service of humankind and equitable justice. Nigeria believes that a strengthened and reinvigorated ICC, as a symbol of the international criminal justice system, has an important role to play in offering solace to victims of heinous, despicable and dastardly crimes. We have a collective duty to this generation and to future generations to give a voice to the voiceless and ensure that the perpetrators of those crimes are brought to justice.

We welcome the ongoing support and cooperation that the Court receives from the senior leadership of the United Nations. We commend the support of the previous Secretary-General and equally appreciate the supportive engagement with the Court of the current Secretary-General and his team, and we hope that the close collaboration will be sustained. The crucial cooperation of the Under-Secretary-General for Legal Affairs and Legal Counsel as the interface between the Court and the United Nations is also highly appreciated. As the main forum for diplomacy, the United Nations presents a unique medium for promoting the Rome Statute issues and considerations for greater understanding.

Nigeria welcomes the Court's ongoing cooperation with States, non-State parties, regional organizations, national bar associations and other relevant stakeholders. We also wish to express our gratitude for the generous contributions from the European Commission, the Netherlands, Norway and the International Organization of la Francophonie that have enabled the Court to conduct nine high-level and technical events during the reporting period.

Conferences and seminars are important forums where participants benefit from the exchange of ideas and information and have an opportunity to better understand issues. In that connection, seminars — such as the one in Addis Ababa with African States parties — are necessary, as they become veritable avenues for addressing the areas of misunderstanding between African States and the Court.

We call on non-States parties to become signatories to the Rome Statute in order to enhance the universality of the Court and to enable it to function effectively in the fight against impunity.

Mr. Bin Momen (Bangladesh): Bangladesh thanks the President of the International Criminal Court (ICC) for presenting a comprehensive report (see A/72/PV.36). We take note of the ICC's increased workload and the corresponding demand in the level and scope of cooperation between the United Nations and the ICC. We are pleased to once again co-sponsor the draft resolution entitled "Report of the International Criminal Court" (A/72/L.3).

Bangladesh considers the Court's hearing and verdict in its first case involving the destruction of cultural property, as well as admission of guilt by the accused, to be a significant development. We appreciate the report furnished on the situations and cases under the Court's jurisdiction, the ongoing investigations into 10 cases and the proceedings with reparations for victims in four cases (see A/72/349). It is also useful to have an overview of the preliminary examinations being conducted by the Office of the Prosecutor.

One of the most compelling narratives emanating from the ICC is the significant number of victims it has been supporting through its determination of reparations and also through its Trust Fund for Victims. We underline the need for a sustained flow of resources to that Trust Fund from States parties, philanthropic organizations, foundations and individuals, among others. We thank the Trust Fund in particular for announcing the launch of a victims assistance programme in Côte d'Ivoire.

Bangladesh attaches great importance to addressing sexual and gender-based violence during armed conflicts

and to ensuring accountability and justice for such crimes committed by both State and non-State actors. We recall the first conviction for sexual violence by the Court last year in what is also its first case involving command responsibility. Bangladesh reaffirms its readiness to share its national experience in ensuring justice for victims of rape and other forms of sexual violence committed during our war of independence in 1971, and the renewed judicial and administrative efforts made in recent times to promote due recognition and reparation for such victims.

We stress that the cooperation, assistance and support of State parties to the Rome Statute, as well as of other States, remain critical for discharging the ICC's mandate in a sustained and meaningful manner. We reiterate the importance of recognizing the ICC's mandate and competence through the United Nations system with a view to acknowledging its valuable contribution to international peace, the rule of law, and peaceful, just and inclusive societies.

We underscore the Security Council's continued support for the effective functioning of the Court, including for the cases referred to the Court by the Council. As a lead contributor to United Nations peacekeeping operations, we will continue to extend the necessary cooperation to the Court in the mission areas where our peacekeepers and military observers are deployed.

Bangladesh attaches high importance to the primary responsibility of national jurisdictions to investigate and to prosecute the crimes defined in the Rome Statute. We fully endorse the recommendations for the possible inclusion of issues related to the Rome Statute in legal and judicial reform programmes supported by the United Nations in the context of development assistance for the rule of law. That would be particularly important to States that are not party to the Rome Statute and that have been alleged to have committed atrocity crimes against their own civilians.

The ongoing violence and the forcible displacement being pursued by the Myanmar security forces against the Rohingya in Rakhine state reinforce the overriding importance of adhering to the principles of the Rome Statute, including in the context of a fledgling democracy. The international community, especially the Security Council, has a responsibility to seek accountability for what the United Nations High Commissioner for Human Rights has termed a textbook example of ethnic cleansing in Rakhine state. In a recent statement, the Special Adviser to the Secretary-General on the Prevention of Genocide and the Special Adviser on the Responsibility to Protect emphasized that those implicated in the commission of the reported atrocity crimes must be held accountable, whatever their status. It is critical that the Myanmar authorities allow access to the United Nations fact-finding mission as an important first step in that regard.

As a State party, Bangladesh remains committed to the promotion of the universality and the full implementation of the Rome Statute. We thank two States parties for reversing their decision concerning their notifications of withdrawal from the Rome Statute. The ICC cooperation seminars and other cooperation arrangements with relevant international and regional organizations should also contribute to the universalization agenda.

Bangladesh underscores the need for appropriate capacity-building support, through training and the sharing of knowledge, for national jurisdictions of State parties, pursuant to the principle of complementarity. In that context, we reiterate the need to consider budgetary support for internships and visiting professional programmes for applicants from States parties representing developing and least developed countries. We reiterate that due attention should be given to ensuring equitable geographical representation for staffing at the Court, especially at the professional level.

Bangladesh looks to the forthcoming session of the Assembly of States Parties for constructive and pragmatic decisions, including on the activation of the Court's jurisdiction over the crime of aggression. We thank those delegations that have actively contributed to taking forward the intersessional work.

To conclude, we reiterate the need to uphold solidarity among States parties and the integrity and credibility of the legal and judicial proceedings of the Court in the overarching interest of fighting impunity for internationally defined crimes wherever and by whomsoever they are committed.

Mr. Oña Garcés (Ecuador) (*spoke in Spanish*): The delegation of Ecuador expresses its appreciation to the President of the International Criminal Court, Ms. Silvia Fernández de Gurmendi, for her presence at the meeting this morning (see A/72/PV.36) to present the report of the International Criminal Court

on its work carried out in 2016 and 2017, contained in document A/72/349, issued on 17 August.

Ecuador has consistently defended the role of the International Criminal Court in the maintenance of international peace and justice as an essential component of conflict prevention and of reparations to the victims of the most serious crimes. On this occasion, we reiterate our support for the Court as a mechanism with unique characteristics to fight impunity. We call for all States present in the Hall to also lend their support so that the Court can effectively and concretely exercise its jurisdiction over persons and its competence with respect to the most serious crimes of concern to the international community.

Certainly that is the least that should be done when history has witnessed past and present events that have made children, women and men victims of unimaginable atrocities that deeply shock the conscience of humankind, as stated in the preamble to the Rome Statute. Indeed, the crime of genocide, crimes against humanity, war crimes and crimes of aggression, which are subject to complementary jurisdiction, can be appropriately judged if there is universal accession by States to the Statute and if States provide the necessary cooperation to the Court.

In that regard, for Ecuador, the universality of the Rome Statute must be an irrevocable objective that will enable us to achieve genuine universal criminal justice that ensures the fight against impunity and allows for the due punishment of those who commit the most serious crimes affecting the international community. However, the universality of the Statute is not just full membership of the International Criminal Court, but also the guarantee that all cases involving the commission of crimes subject to the jurisdiction of the Court are tried without double standards, without exceptions based on political or economic interests and without the use of different parameters to measure the same situations. To ensure such independence, it is essential that the International Criminal Court have the necessary financial resources to carry out its work and that any reduction in expenses not affect crucial areas of the Court's functioning.

We also believe that the strengthening of international criminal justice requires the acceptance of the Kampala amendments, adopted in 2010. Ecuador is in the process of ratifying those amendments. We believe that the entry into force of the Kampala amendments will mark a historic milestone in the history of international criminal justice.

In addition, we believe that it is necessary to strengthen the mechanisms for obtaining resources and invigorating the cooperation of the international community with regard to the Trust Fund for Victims, to the extent that the Fund assists the work of the Court on a fundamental element of justice, that is, the protection of victims and reparations for the crimes dealt with in the Rome Statute.

We also wish to reiterate our position with regard to the principle of complementarity with the Court. We attach particular importance to complementarity, since it is a mechanism that allows States to cooperate in the fight against impunity and has something of singular importance, namely, national capacity-building. Through complementarity, the International Criminal Court supports national legislations; it is not a substitute for them.

Finally, my delegation would also like to express its support for the efforts of the United Nations system to improve the channels of cooperation with the Office of the Prosecutor and other organs of the Court. We call on Member States to provide all possible support for the fulfilment and execution of the orders issued by the relevant authorities of the International Criminal Court.

Mrs. Gregoire Van Haaren (Netherlands): The Kingdom of the Netherlands aligns itself with the statement delivered by the observer of the European Union (see A/72/PV.36).

The Kingdom of the Netherlands would also like to join others in expressing gratitude to President Fernández de Gurmendi for her presence in the Hall today and wishes to compliment her for her outstanding presentation (see A/72/PV.36). The annual report of the International Criminal Court (see A/72/349) gives a clear overview of the considerable work done in the reporting period and of the challenges ahead.

Given the great importance of the topic at hand, allow me to briefly address the following three issues: the fight against impunity, the current challenges facing the Court, and the universality of the Rome Statute.

First, the Kingdom of the Netherlands remains deeply committed to the fight against impunity for the most serious international crimes. In that light, we welcome the fact that the threshold of 30 ratifications of the crime of aggression amendments has been met,

which enables the Assembly of States Parties to activate the Court's jurisdiction on the crime of aggression at its upcoming session. The Kingdom of the Netherlands attaches great importance to a clear decision of the Assembly of States Parties in that respect, as it will constitute a fundamental step towards ensuring accountability and ending impunity.

While underlining the Court's essential role in the fight against impunity for all core international crimes, we would like to stress that the primary responsibility for ensuring accountability continues to lie with States, as follows from the principle of complementarity. In order to maintain a functioning system of international criminal justice, thereby promoting international peace and justice overall, it is important to stress the primary responsibility of States to investigate and prosecute the crimes as defined in the Rome Statute. The adoption of national legislation in order to effectively implement the Statute is of critical importance. To put it in simple terms: justice begins at the national level, and not in The Hague.

That brings me to the second point I want to address. As the report sets out clearly, the International Criminal Court is confronting a tremendous workload. In dealing with the many challenges, with that heavy workload and high expectations, the Court should be able to depend upon the States parties in a number of ways. First, the financing of the Court needs to be adequate. We cannot expect more from the Court without ensuring that it has sufficient means to meet those increasing expectations. Secondly, as the Court has itself repeatedly underlined, it inevitably has to rely on the States parties for the enforcement of its decisions and judgments. The Rome Statute clearly lays down the obligations of the States parties to support and facilitate the work of the Court throughout the various stages of its judicial proceedings. In that respect, various forms of voluntary cooperation, such as the conclusion and implementation of framework agreements on the relocation of witnesses and the execution of judgements, constitute a vital contribution to the effective and efficient functioning of the Court.

As the Court is more occupied than ever and confronts an impressive number of trials, appeals, investigations by the Prosecutor, preliminary examinations and continent-crossing situation investigations, it is imperative for States parties to assist the Court. That relates not only to their contributions to the regular budget, but also to the need to intensify their voluntary cooperation with the Court. Without that cooperation, the Court will be unable to effectively exercise its mandate.

Thirdly, I would like to address the issue of the universality of the Rome Statute. The International Criminal Court embodies norms and values that are both fundamental and universal. On that basis, the Kingdom of the Netherlands would like to reiterate the importance of the ratification of the Rome Statute by all States Members of the United Nations. In that regard, we welcome the decisions taken by those countries that reversed their previously announced intention to withdraw from the Rome Statute.

We commend the various organs of the Court for their comprehensive efforts to promote a meaningful and constructive dialogue with those and other States parties. We express our hope that the positive signals and expressions of trust in the Court's fundamental mission will resonate throughout the international community. We believe that next year's milestone — the twentieth anniversary of the adoption of the Rome Statute — will provide a unique opportunity to emphasize the crucial relevance of the Court and advocate for more global support.

The Kingdom of the Netherlands and, more specifically, The Hague, as the international city of peace and justice, are the proud hosts of the International Criminal Court. As we approach the twentieth anniversary of the Rome Statute, let us work together in promoting the universality of its mission. Let us strengthen our cooperation in facing present-day challenges, which unfortunately pose threats to the maintenance of international justice. The fight against impunity is more pressing than ever. Strengthening cooperation among States parties, but also between States parties and with the Court, is of paramount importance in that regard. Securing global justice is, after all, our joint responsibility.

Ms. Agladze (Georgia): Georgia aligns itself with the statement delivered on behalf of the European Union (see A/72/PV.36). In addition, I would like to add a few remarks in my national capacity.

At the outset, let me thank the President of the International Criminal Court (ICC), Ms. Silvia Fernández de Gurmendi, for the report on the activities of the Court (see A/72/349). My delegation wishes to recognize her dedication, which has been pivotal in guiding the Court during uneasy periods of its

existence. We also thank the President of the Assembly of States Parties to the Rome Statute, Mr. Sidiki Kaba, for his role and leadership in this critical period.

This year's report features several important achievements of the Court, including the first case involving the destruction of cultural property as an attack against historic monuments and buildings. That case marked the first precedent in the Court's proceedings of the admission of guilt by the accused. The ongoing discussions on the activation of the Court's jurisdiction concerning the crime of aggression are of critical importance, and we would like to commend the facilitator for the able stewardship and for all the efforts made. Georgia has ratified the amendments to the Rome Statute on the crime of aggression and looks forward to the decision in December of the Assembly of States Parties on its swift activation.

Preventing the most heinous crimes that threaten the peace, security and well-being of the world is vital to upholding the rule of law at the international level, based on the principles of international law and the common values of humankind that both the Court and the United Nations share. While we approach the twentieth anniversary of the creation of the ICC, sadly the world continues to witness crimes of an unspeakable scale and gravity. The establishment of the International Criminal Court set a new paradigm. Accountability is important to build a future free of violence by avoiding the recurrence of conflicts and repetition of violence, as well as to ensure justice for victims of mass atrocity crimes.

Georgia reaffirms its commitment to the work undertaken by the Court in accordance with its mandate. Effective and comprehensive cooperation and assistance by States are indispensable for the Court to carry out its activities successfully, more so given the Court's complementary role to that of national criminal jurisdictions. Georgia has been cooperating with the Court ever since the ICC Prosecutor announced the start of the preliminary examination of the 2008 war in Georgia, on 14 August 2008. As an enabling factor for the full-fledged cooperation with the ICC, Georgia has put in place adequate implementing legislation for the Rome Statute at the national level.

Moreover, on 26 July 2017, the Registrar of the International Criminal Court, Mr. Herman von Hebel, on behalf of the Court signed an agreement with the Government of Georgia in Tbilisi to facilitate the Court's activities and ongoing investigations in the country. I would like to recall some of the key aspects of the ongoing cooperation with the ICC.

Georgia has been the victim of international crimes since the 1990s — and notably in August 2008, when thousands of civilians were targeted in a repeated wave of ethnic cleansing and other heinous crimes. At the national level, Georgia has carried out investigations of an unprecedented scale. The investigation team interviewed more than 7,000 witnesses and carried out crime-scene inspections in over 30 inhabited areas. Where evidence was inaccessible due to the Russian occupation of the Georgian territories, the crime scenes were examined through satellite imagery.

Despite our continued efforts, our ability to carry out additional necessary investigative measures in the Abkhazia and Tskhinvali regions at this stage is hampered by the illegal foreign occupation. In those circumstances, the request of Prosecutor Bensouda and the subsequent decision of Pre-Trial Chamber I to authorize an investigation into all crimes under the Rome Statute committed during the 2008 international armed conflict between the Russian Federation and Georgia have been recognized as important steps in acknowledging the ordeal suffered by the victims.

The same Chamber decision stated that an international armed conflict existed between Georgia and the Russian Federation between 1 July 2008 and 10 October 2008. Pre-Trial Chamber I further noted that the consistent pattern of deliberate killing, beating and threatening civilians, detention, looting properties and systematic destruction of Georgian houses took place. As the Prosecutor emphasized, we hope that the investigation will lead to establishing the truth and bringing justice to the victims who suffered so terribly during the conflict.

Georgia will continue to strongly support the Court in its critical work and stands ready to further strengthen cooperation with all States parties in reaching the goals of ending impunity, upholding justice and achieving sustainable peace.

Mr. Llorentty Soliz (Plurinational State of Bolivia): The Plurinational State of Bolivia would like to express its gratitude for the report (see A/72/349) on the activities of the International Criminal Court submitted by its President, Judge Silvia Fernández de Gurmendi (see A/72/PV.36), and we thank her for her leadership at the head of the Court.

The Bolivian State, which respects international law, abides by the purposes and principles of the Charter of the United Nations and the Rome Statute and recognizes the importance of the principles of complementarity and cooperation with the International Criminal Court. Bolivia had an active part in the establishment of the Court, and in its development through the Assembly of States Parties since its signing of the Rome Statute in 1998.

Bolivia takes due note of the course of jurisdictional activities completed and the tasks the Court undertakes to consolidate its complex institutional organization and to improve the effectiveness and efficiency of the work of the various organs of which it is composed. We acknowledge the Court's progress in resolving its cases and the increase in new investigations, which could lead to a greater caseload at a pace gradually consolidating the principles of international criminal justice.

The discovery of truth through the gathering of evidence and witness testimonies in very diverse cultural contexts is a complex task that requires the full cooperation and complementarity of judicial systems, both from the States that are requesting the jurisdiction of the Court and from the United Nations through support in the cases that are referred by the Security Council.

In the cases referred by the Security Council, it will be necessary to study, within the Council, the need to supplement the Court's budget to cover the costs of investigations, trials and possible victim reparations. In that context, we note the need for greater coordination and cooperation among the Court, the Security Council and the wider United Nations to achieve the common objectives of international peace and security.

At the end of its first 15 years of existence and nearly 20 years since the signing of the Rome Statute, the Court has shown its ability to solve complex cases in sensitive areas. The scope of the Statute is still being tested today, and the difficulties of an unprecedented model of universal criminal justice for a multipolar, diverse and plural world are being overcome labouriously.

The International Criminal Court is part of a global undertaking that affects all States. Its mission is consonant with strengthening international criminal justice and the values it embodies: peace and security, respect for human rights, guarantees of due process, protection of victims and the end of impunity. In that connection, we call for its universality and urge those States that are not yet party to join it.

It is appropriate to repeat that it is not possible to leave unpunished those who committed, or continue to commit, crimes affecting the international community. All States, whether they are party to the Court's Statute or not, have the primary responsibility for taking action and contributing to the prevention and trial of such crimes. The International Criminal Court, acting independently and effectively, using the best methods of cooperation and complementarity with States, is vital to guarantee universal criminal justice.

Mr. Pérez de Nanclares (Spain) (*spoke in Spanish*): Once again, I have the honour of addressing the General Assembly on an issue that Spain considers to be of the utmost importance. The fight against the most serious international crimes constitutes, without any doubt, an essential element in maintaining international peace and justice. It is also an imperative flowing from the principle of the rule of law, which is inherent to the international legal system. Fighting impunity, prosecuting the criminals who commit such crimes and ensuring justice for the victims must be permanent goals for the whole international community.

Besides endorsing the speech delivered by the observer of the European Union (see A/72/PV.36), I would like to highlight the work undertaken by the International Criminal Court (ICC). That work is detailed in the report (see A/72/349) covering the period from 1 August 2016 to 31 July 2017, which was presented this morning by the President, Judge Fernández de Gurmendi (see A/72/PV.36). To her, the judges, Prosecutor Bensouda and the rest of the Court's personnel we express our most sincere thanks. We also thank the Mexican delegation for its work in the promotion and coordination of the draft resolution (A/72/L.3), which Spain has co-sponsored.

Since the very beginning of the preparations for the Rome Statute, Spain has been a strong advocate of the role assigned to the ICC in the difficult task of fighting impunity with the tools of the international rule of law. We also played a very active role at the 2010 Kampala Conference. Accordingly, the Kingdom of Spain submitted its instrument of ratification of the Kampala amendments quite early, on 24 September 2014. There is no doubt that my country will maintain its traditional firm and sincere support to the work of the Court.

At the present time, we are all perfectly aware of the existing disagreement regarding the activation of the Court's jurisdiction over the crime of aggression. The consensus compromise reached at the Kampala Conference, reflected in articles 8 bis, 15 bis and 15 ter, allowed for the adoption of the text of the amendments and the successful conclusion of the Conference. Now that the threshold of the 30 ratifications needed for its entry into force has been surpassed, the Assembly of States Parties will be responsible for adopting the decision to activate the jurisdiction of the Court.

However, the underlying problem has re-emerged. Different positions have emerged as to whether the focus is on article 15 ter, paragraph 3, or on article 121, paragraph 5. They reach diametrically opposed conclusions. That makes it extremely difficult to forecast the result of the next session of the Assembly of States Parties, to be held in December.

In that connection, Spain would like to commend Austria's work as facilitator and advocate above all for reaching a desirable consensus within the Assembly of State Parties. Moreover, we also stand for the need to comply with what was agreed in Kampala. That is why the decision to be finally adopted should not imply the reopening, de facto or de jure, of the negotiation of what was agreed in Kampala, already ratified by 34 States.

Without going into specific figures, which have already been mentioned repeatedly by the speakers who preceded me, I would like to underline four of the positive aspects of the work carried out by the Court in the past year.

First is the extension of the geographic scope of the Court's action, which encompasses four continents: America, Africa, Asia and Europe. The fight against impunity for international crimes knows and should know no borders.

Secondly, we must commend the influence of the Court on State-level proceedings against the crimes under its jurisdiction. There have been various instances in which, pursuant to the principle of complementarity, the Court has not exercised its jurisdiction because of the intervention of national jurisdictional bodies.

Thirdly, we welcome the consolidation of the role of the Trust Fund for Victims, which, as the observer of the European Union said this morning, constitutes an essential pillar of the work of the International Criminal Court.

Lastly, we applaud the Court's first conviction for offences against the administration of justice, in accordance with article 70 of the Rome Statute, as well as the consideration given to the attacks on historic monuments and buildings.

Despite the undoubtedly positive assessment of the overall work of the Court, there are at least four aspects that require a critical assessment.

The first is the withdrawal of Burundi. Our ambition is for the number of State parties of the Statute to continue increasing, without any withdrawals. In that regard, we must welcome the fact that South Africa and the Gambia reconsidered their initial decisions to withdraw from the Statute.

The second aspect that has become a source of some concern pertains to collaboration between the Court and the Security Council. We believe that the report of the Court clearly identifies the elements where improved collaboration is desirable. Those elements point towards sanctions approved by the Security Council and its reaction, or lack thereof, to the notifications of non-collaboration sent to it by the ICC. We believe that we should take serious note of the report of the Court and act accordingly.

A third element to be underlined is the fact that we, the States, must act in appropriate fashion. Cooperation with the Court and the proper execution of its decisions is vital to achieve the necessary credibility of the system. In that regard, particular attention should be paid to the arrest of suspects.

Finally, we believe that we must also draw attention to the need for the Court to carry out its work effectively and efficiently, based on good governance and transparency. That in no way precludes our recognition of the notable efforts and advances that the Court has achieved recently.

Spain wishes to conclude by underscoring the vital importance of the Court in the maintenance of peace, justice and the rule of law through the effective fight against impunity for the most serious crimes committed against humanity, while reiterating the firm commitment of our country to pursue that commendable objective.

Mr. Okaiteye (Ghana): I would like to join previous speakers in thanking the President of the International Criminal Court (ICC) and the Secretary-General for their comprehensive report on the activities of the Court

for the period 2016/2017, as reflected in the report of the Court (see A/72/349).

Ghana attaches great importance to the work of the International Criminal Court and its role in ensuring accountability for crimes, providing justice to victims and helping to prevent future crimes. In recognition of the relevance of international criminal justice for the rule of law and international peace and security, Ghana remains committed to the Rome Statute and wishes to take this opportunity to pledge its unwavering support for the Court and its activities. Ghana's democracy is strongly rooted in respect for the rule of law, and we believe that the culture of impunity for atrocity crimes should have no place in the twenty-first century.

The targets established under Goal 16 of the Sustainable Development Goals provide additional reasons why international criminal justice issues must be mainstreamed within the framework of the rule of law at the national and international levels, and we support the views expressed in the report in that regard.

My delegation welcomes the highly valuable cooperation that the ICC maintains with the United Nations and efforts to strengthen the linkages between the mandates of the United Nations and the Court. We very much encourage the further strengthening of that engagement at the working level. We also encourage the Court to explore opportunities for closer engagement with regional organizations, in particular with the African Union, which has a strong peace and security agenda. While the Court and the Security Council have different roles in addressing grave crimes, those roles, as rightly indicated in the report, are complementary. We therefore look forward to increased cooperation and complementarity between the two bodies in order to improve the implementation of obligations, enhance crime prevention and effectively combat impunity.

As indicated in the report, the primary responsibility of national jurisdictions to investigate and prosecute crimes defined in the Rome Statute, and strengthening their capacity to do so effectively, remains critical to ending impunity for international crimes. Consequently, development assistance for building capacities in international investigations and prosecution and for the incorporation into national legislation of Rome Statute crimes and principles and national processes for cooperation with the Court are an important area of activity.

My delegation takes note of the heavy workload of the Court in the period under review. With a total of 25 ongoing cases and investigations in 10 situations and other preliminary examinations, that is evidence that the Court is more relevant today than ever. In the light of that fact, we wish to call on States parties to seriously consider the issue of complementarity as one of the options to be explored in addressing the overload of the Court's work. We call for capacity-building at the national level so that national courts can take ownership of some of the trials. Certainly, the independence of those national courts should be paramount in the capacity-building efforts in order to ensure that fair trials are held.

My delegation wishes to commend the Court for its activities relating to reparations and assistance provided through the Trust Fund for Victims, as reflected in paragraphs 117 and 118 of the report. That will help to assuage the suffering of victims and give succour to their dependants. We urge States parties to continue to support the Fund and to sustain the assistance programmes.

In view of the importance Ghana attaches to those issues, the Government has decided to present the candidature of Ms. Henrietta Joy Abena Nyarko Mensa-Bonsu for election as a judge in the ICC in the upcoming elections in December. Suffice it to say that Ms. Mensa-Bonsu has all the qualities that States parties are looking for in the judges of such an eminent Court. We believe that she will be an asset to the Court if elected.

We will remain actively engaged in efforts to strengthen the role of the Court as an integral part of the international legal system and to promote broad and strong support for its important work.

Mr. Trujillo (United States of America): We thank President Fernández de Gurmendi for her update of the activities of the International Criminal Court (ICC) from 1 August 2016 through 31 July 2017.

The United States remains deeply committed to accountability for atrocity crimes, and we continue to support myriad international, regional, hybrid and domestic mechanisms that work in pursuit of that goal. Among those options, we have long believed and stated that justice is most effective when it is delivered at the local level. We would call on the ICC and States to respect genuine domestic efforts to promote justice for atrocity crimes.

As we look across the landscape of international justice, we see countries taking on that important task, and the United States welcomes the progress they have made. In the Central African Republic, personnel have been appointed to the Special Criminal Court to begin the work of ending impunity for mass atrocities in that country. Since May, the Head International Prosecutor as well as national and international magistrates, prosecutors and investigators have been named. We are also encouraged by the work of the Kosovo Specialist Chambers, which continues to ready itself for the indictments from the Specialist Prosecutor's Office. In the past year, a roster of judges, along with the President of the Court, was selected, and the judges convened and adopted rules of procedure and evidence.

In addition to those positive steps in domestic systems, the United States is pleased to see advancements in a number of regional and hybrid efforts to end impunity for atrocity crimes. For example, in November of last year, the Extraordinary Chambers in the Courts of Cambodia upheld the convictions of Nuon Chea and Khieu Samphan for crimes against humanity, finally bringing a measure of justice for the victims of murder, persecution and other inhumane acts in Cambodia decades ago. In South Sudan, the African Union is working with the South Sudanese Government to prepare for judicial processes of accountability, taking steps to establish a hybrid court to prosecute those responsible for atrocities committed in that country. For institutions like these, there is still much work to be done, but every step forward is a welcome one.

In that vein, the United States has supported building a foundation for accountability through documentation of atrocities that help domestic courts deliver justice. In Iraq, for example, the United States supported Security Council resolution 2379 (2017), adopted last month, requesting that the Secretary-General establish an investigative team composed of international and Iraqi experts, headed by a special adviser, to support Iraqi domestic efforts to hold the Islamic State in Iraq and the Levant (ISIL) accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to genocide, crimes against humanity and war crimes.

Information gathered by the team could be used by Iraq, and, with the approval of the Security Council, other Member States, on the territory of which ISIL has committed acts that may amount to genocide, war crimes and crimes against humanity, may request the team to collect evidence of such acts. The resolution further encourages other Member States to provide appropriate legal assistance and capacity-building to the Government of Iraq in order to strengthen its courts and judicial system. Taking timely steps to gather evidence for potential use in criminal prosecutions will be particularly important, as we know that over time material and witness testimony may be more difficult or impossible to obtain.

The United States has for years supported Syrian non-governmental organizations that are documenting human rights abuses and international humanitarian law violations in Syria, as well as the Independent International Commission of Inquiry, which was established in 2011 by the United Nations Human Rights Council with a mandate to investigate all human rights violations in Syria. The United States has also strongly supported the call for accountability in numerous Security Council resolutions and supported the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism to investigate chemical-weapon attacks.

In the past year, we have supported the international community in taking efforts one step further with the International, Impartial and Independent Mechanism for the Syrian Arab Republic, established through resolution 71/248, in December 2016. Its mandate is to consolidate and analyse evidence of violations of international humanitarian law and abuses and violations of human rights law, including evidence generated by the Committee on Information, non-governmental organizations and others, and to prepare files in order to facilitate fair and independent criminal proceedings in the appropriate forums. That can be an important step forward to support investigations and prosecutions of perpetrators of atrocities in Syria.

As those and other efforts demonstrate, it is through multiple institutions and mechanisms that the international community can fight to end impunity for those crimes that shock our common conscience. As the United States considers these issues and how they relate to the ICC moving forward, I would recall that we have serious concerns with respect to the crime of aggression amendments, which we believe contain dangerous ambiguities regarding basic issues, such as which States and what conduct would be covered by the amendments. As we have said consistently, we believe that such issues should be clarified before any decision is taken by the ICC States parties to activate the amendments. Taking concrete steps to do so will

help ensure that States are able to join together when necessary to take action to prevent atrocities and safeguard collective security.

In conclusion, as long as minorities in Burma are persecuted and murdered, as long as civilians are attacked with chemical weapons in Syria, as long as South Sudanese children are abducted and forced into combat and as long as people are being tortured and disappeared in Burundi, States cannot stand by idly. Those who are responsible for atrocities must face consequences for their actions in accordance with international law. Steadfast in our commitment to pursue justice for the world's worst crimes, the United States will continue our work towards that end.

Mrs. Pino Rivero (Cuba) (*spoke in Spanish*): The delegation of Cuba takes note of the report of the International Criminal Court (see A/72/349) and expresses its commitment to the fight against impunity for crimes that affect the international community. Several issues — such as the international situation characterized by armed conflicts, foreign interventions to the detriment of the principles of international law, which directly affects the people, and the attempts to withdraw from the Rome Statute by some of its members — positively demonstrate once more the need for an autonomous international institution of jurisdiction, which would lead the fight against impunity for the most serious crimes against humankind.

However, based on what is stipulated in articles 13 (b) and 16 of the Rome Statute, which demonstrate the ample powers bestowed upon the Security Council in relation to the work of the International Criminal Court, the reality is that the Court is far from being an independent institution. Apart from undermining the essence of that organ's jurisdiction, this issue violates the principle of independence of judicial bodies and the transparency and impartiality of the administration of justice.

The referrals made to the Court by the Security Council, which are included in the Court's report, confirm that negative trend, to which our country has made reference on various occasions. We reiterate once again that, in the referral processes of the Security Council, international law is constantly violated, evidencing a selective policy towards developing countries, in the name of a supposed fight against impunity. That is why Cuba reiterates its position in favour of the establishment of an international criminal jurisdiction that is impartial, non-selective, effective, fair, complementary to national justice systems and genuinely independent, and therefore free from subjugation to political interests that might erode its essence.

The delegation of Cuba reiterates that the International Criminal Court cannot ignore international treaties and the principles of international law. The Court must respect the principle of law with respect to the consent of a State to be bound by a treaty, as provided for in article 11 of part II of the Vienna Convention on the Law of Treaties, of 23 May 1969. Cuba wishes to reiterate its serious concern about the precedent set by the decisions of the Court to initiate judicial proceedings against nationals of States non-parties to the Rome Statute that have not even accepted the jurisdiction of the Court, pursuant to article 12 of its Statute.

The International Criminal Court must report to the General Assembly on its activities in accordance with the Relationship Agreement. Although Cuba is not a party to the Criminal Court, it is willing to continue to actively participate in negotiation processes related to the Court, and especially on the draft resolution on the report of the International Criminal Court that the General Assembly adopts every year, which must reflect the positions of both States parties and States non-parties to the Court.

Cuba reaffirms its determination to fight impunity and maintains its commitment to international criminal justice, to the principles of transparency, independence and impartiality and to the unrestricted application of and respect for international law.

Mrs. Betham-Malielegaoi (Samoa): Samoa wishes to convey its sincere appreciation to President Silvia Fernández de Gurmendi for her commitment and for the achievements she has brought about during her tenure as Judge and President of the International Criminal Court. We also thank her for the warm sentiments she expressed with regard to Samoa.

Samoa welcomes the constructive report on the International Criminal Court (see A/72/349) and is pleased to be one of the sponsors of draft resolution A/72/L.3. Samoa notes with satisfaction that there are now 124 States parties to the Rome Statute and further welcomes the fact that, as of now, 34 States parties have ratified the Kampala amendments on the crime of aggression. Like other States parties, Samoa hopes that

the sixteenth session of the Assembly of States Parties to the Rome Statute will bring about the activation of the Court's jurisdiction over the crime of aggression, as agreed in Kampala in 2010.

Samoa wishes to reiterate its unwavering support for the Court and its full commitment to the principles of the Rome Statute and the rule of law, as Samoa has continually demonstrated through its actions. Indeed, by hosting the President of the International Court during the forty-eighth Pacific Island Forum, held in Apia in September, Samoa clearly demonstrated its faith in the Court by facilitating the universality of the Rome Statute.

In that regard, Samoa calls upon States Members of the United Nations, especially small island developing States like our own, which have no military capacity and remain dependent on the rule of law, to consider ratifying the Rome Statute as part of their national implementation of Sustainable Development Goal 16. For Samoa, being a State party to the Rome Statute virtually ensures the protection of its nationals and further provides protection against impunity and the perpetrators of heinous crimes.

Mr. Mansour (Palestine): At the outset, I would like to thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her report to the General Assembly (see A/72/349). I would also like to thank the Secretary-General for his report on cooperation between the United Nations and the ICC (A/72/PV.342). The State of Palestine welcomes the crucial support of the United Nations for, and cooperation with, the ICC as well as the ideas put forward to further that cooperation, including through regular exchanges between the Court and the Security Council on the ongoing crimes being examined by the Court.

There can be no doubt that robust international justice is indispensable to international peace and security. Born in reaction to the horrors of our century — from the Second World War and the Holocaust to the genocides in Rwanda and the former Yugoslavia — the International Criminal Court is humankind's pledge to prevent the recurrence of such atrocities. The ICC is the embodiment of our belief that there are crimes for which there can be no immunity and that it is the common responsibility of all humankind to hold those who commit such crimes accountable if States are unwilling or unable to do so. As such, the universality of the Court is of the utmost importance, and in that regard we welcome the decisions of both South Africa and the Gambia to reverse their decisions to withdraw from the Court. We call on all States to join the ICC to fulfil the long-overdue promise of a universal Court that would ensure that atrocity crimes do not go unpunished.

The States parties to the ICC therefore have a duty not to delay any further the granting of jurisdiction to the Court over the worst form of the illegal use of force, the crime of aggression. The suppression of acts of aggression is of such importance that it stands among the purposes of the United Nations enshrined in Article 1 of the Charter. As long as we are not willing to hold accountable those responsible for the commission of the crime of aggression, we will be failing in our responsibility to help prevent such crimes in the future.

The State of Palestine had the honour to be the thirtieth State to ratify the amendment on the crime of aggression, thereby helping to fulfil one of the two criteria for the activation of the Court's jurisdiction over that crime. At the upcoming session of the Assembly of States Parties of the ICC, and 20 years after the adoption of the Rome Statute, States parties will have an opportunity and the responsibility to activate the Court's exercise of jurisdiction over the crime of aggression. They must do so in a way that is fully consistent with the letter and spirit of the Kampala compromise, which includes specific provisions regarding the jurisdiction of the Court in relation to the crime of aggression. States parties also must not attempt to further restrict the jurisdiction of the Court in relation to this most serious crime.

The State of Palestine has pledged its full cooperation with the Court and acted accordingly since it joined the ICC. It submitted a declaration accepting the Court's jurisdiction over the occupied Palestinian territory, including Jerusalem, which led to the opening by the Prosecutor of a preliminary examination of the situation in the State of Palestine. The State of Palestine submitted extensive communications to the Court with respect to the crimes committed by Israeli officials in relation to illegal settlements and their associated regime and the attacks against the civilian population, notably in the Gaza Strip during the summer of 2014.

Palestine has the utmost respect for the independence of the Court. However, it is clear that all Courts have an obligation to ensure justice is neither delayed nor

denied. The ICC has a heightened responsibility in situations where crimes are ongoing so as to prevent their recurrence. In the past three years, during which the preliminary examination in the situation in Palestine has been under way, Israel has intensified the pace of its crimes, notably in relation to settlements. Israeli leaders have confessed not only to being aware of the existence of such crimes, but also to their intent to commit them and to continue doing so relentlessly, as demonstrated in 2017, when settlement announcements have more than tripled compared to 2016.

Given the overwhelming prima facie evidence of the commission of crimes by Israeli officials in Palestine, and given that those crimes are among the most documented in recent history, and taking into account their recurrence and intensification, their gravity, their impact on international peace and security and their link to both colonialism and apartheid, two of the most condemned phenomena under international law, including international criminal law, Palestine remains an important test for the credibility of the Court, a test that the Court cannot afford to fail. We also call on the Prosecutor to ensure that the language used by her Office does not depart from the legal language grounded in all relevant instruments of international law, while avoiding language that could be seen as rooted in political considerations.

On the eve of the twentieth anniversary of the adoption of the Rome Statute of the International Criminal Court, the State of Palestine stresses that the establishment of the ICC was a historic step towards entrenching the international rule of law. Preserving and empowering the Court is of the utmost importance to ensure protection for future generations and to fulfil the purposes and principles enshrined in the Charter of the United Nations.

We all have a responsibility to address the discrepancy between the vital mandate of the ICC and its too-limited resources. Palestine also underlines the important role of civil society and calls on host States and other States to act decisively in addressing any threats against organizations or persons cooperating with the Court.

Finally, the State of Palestine declares its solidarity with all victims of atrocities, and it pledges to support the Court in its endeavour to ensure justice for those victims and save others from such atrocities. The universality and efficiency of the ICC are paramount if we are to honour our commitment to those victims and the cause of justice and humanity.

The Acting President: We have heard the last speaker in the debate on this item.

We shall now proceed to consider draft resolution A/72/L.3.

Before giving the floor to the speaker in explanation of position before action is taken on the draft resolution, may I remind delegations that explanations of position are limited to 10 minutes and should be made by delegations from their seats.

I now give the floor to the representative of the Sudan.

Mr. Ahmed (Sudan) (*spoke in Arabic*): My delegation reaffirms its commitment to fighting impunity and to the administration of justice through national judicial bodies that are capable and competent and in a position to uphold their national jurisdictions and administer justice at the national level. That is the responsibility of national jurisdictions, without interference or custodianship by any external party. For that reason, we clearly and utterly reject any dealings with the International Criminal Court (ICC).

The Sudan is not a State party to the Rome Statute, which established the ICC, or the Court itself. We also reaffirm that we have no obligation to either pursuant to the Vienna Convention on the Law of Treaties. Furthermore, we consider the ongoing attempts by some States parties to the Rome Statute to make the General Assembly an Assembly of States Parties to that Statute to be unlawful. The Court is a separate entity; it does not enjoy any organic relationship with the United Nations.

The obligations of States parties in no way involve States non-parties. Therefore, draft resolution A/72/L.3 has no bearing on the Sudan, and, when adopted, it will be given no consideration whatsoever by the Sudan.

The Acting President: We have heard the only speaker in explanation of position before action is taken on the draft resolution.

The Assembly will now take a decision on draft resolution A/72/L.3, entitled "Report of the International Criminal Court". For the Assembly's information, the draft resolution has been closed to e-sponsorship.

I now give the floor to the representative of the Secretariat.

Mr. Nakano (Department for General Assembly and Conference Management): I should like to announce that, since the submission of draft resolution A/72/L.3, and in addition to those delegations listed in the document, the following countries have also become sponsors of the draft resolution: Albania, Andorra, Bangladesh, Barbados, Benin, Brazil, Bulgaria, Canada, Chile, Colombia, Croatia, Ecuador, El Salvador, France, Georgia, Ghana, Greece, Hungary, Ireland, Jordan, Latvia, Lithuania, Malta, Montenegro, Panama, Peru, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Senegal, Tunisia, Uganda, Ukraine, the United Kingdom, Uruguay, Vanuatu and the Bolivarian Republic of Venezuela.

The Acting President: May I take it that the Assembly wishes to adopt draft resolution A/72/L.3?

Draft resolution A/72/L.3 was adopted (resolution 72/3).

The Acting President: Before giving the floor to the speaker in explanation of position following the adoption of resolution 72/3, may I remind delegations that explanations of position are limited to 10 minutes and should be made by delegations from their seats.

Mr. Musikhin (Russian Federation) (*spoke in Russian*): The Russian delegation is committed to the international rule of law and to fighting impunity. As part of the Nuremberg and Tokyo tribunals, our country was present at the birth of international criminal justice. Unfortunately, since the International Criminal Court (ICC) started its work, it has not shown itself to be a worthy successor to those two tribunals by living up to the importance of that endeavour.

Once more, we are disappointed that the text of the draft resolution on the report of the International Criminal Court, just adopted as resolution 72/3, was yet again updated with nothing more than technical amendments. We consider it high time to change the approaches used to draft it. The document should fully reflect the positions of the States that are non-parties to the Rome Statute of the ICC. The resolution has turned into an artificially preserved selection of hopes and aspirations that the international community has imposed on the new judicial body since its establishment. There is a need to recognize that they do not mirror the de facto situation, both within and around the Court.

We have expressed our vision of the work of the ICC on several occasions. Unfortunately, last year did not give us any grounds to reconsider that evaluation. For example, with respect to some of the sentences issued during the fifteenth year of the ICC, enormous resources had to be spent, and the effectiveness of the Court has been demonstrated in only one case: in 2011, the Court granted swift legal support for the bombing of Libya. But when reporting on the issue of civilian victims of the NATO bombing of Libya, the ICC Prosecutor stated that nothing had been done to investigate the crimes allegedly committed by the Islamic State in Iraq and the Levant.

The Court continues to ignore the norms of customary international law on the immunity of officials of States that are non-parties to the Rome Statute. As a result, well-known concerns have been shared by a number of States in Africa and by the African Union, and we share those concerns. It is symbolic that they recently gave rise to the first official withdrawal of a State from the Rome Statute of the ICC.

We agree with the assessments voiced here, both in the past and throughout this year, regarding the double standards, selectivity and politicization that the ICC allows in its work. It is not surprising that, in the light of this nature of the Court's work, the Ukrainian and Georgian delegations decided to abuse the rostrum of the General Assembly to voice their usual allegations. The position of Russia with respect to the work of the ICC, specifically on Ukraine and Georgia, is well known, and I will not repeat it.

The reputation of the Court is undoubtedly deteriorating. We have drawn attention to this month's information in the media about abuses that were allowed by current and former staff members of the Prosecutor's Office, including the former Prosecutor of the ICC during the investigation of the Libyan issue. We would further like to point out the inadequate reaction of the Court on that issue.

In conclusion, there are many problems facing the Court; we will not list all of them. However, the main points are as follows: there is not even a single situation that we can recall where the ICC truly facilitated stabilization, the curbing of violence or improvement of the situation for the population. Particularly indicative

in that regard are the many years of work on cases referred to the Court by the Security Council.

In the light of what I have said here, our delegation could not support the technical update of the text and dissociates itself from the consensus on resolution 72/3.

The Acting President: We have heard the only speaker in explanation of position following the adoption of resolution 72/3.

Before giving the floor to speakers in exercise of the right of reply, may I remind members that statements in exercise of the right of reply are limited to 10 minutes for the first statement and to five minutes for the second, and should be made by delegations from their seats.

Mr. Ahmed (Sudan) (*spoke in Arabic*): We would like to make this statement in exercise of our right of reply to the statement of the representative of Estonia, which was audacious enough to mention the Sudan and His Excellency President Al-Bashir. It is rather shocking to consider that the representative of Estonia works in diplomacy, as he mentioned our President's name without giving his title. I would remind him that the Sudan was one of the first sub-Saharan States to gain independence in Africa.

With regard to the relationship between the International Criminal Court and the Security Council, it is just political and has nothing to do with justice. It is an example of the use of selectivity and double standards, which implies an effort to undermine the political independence and integrity of the Sudan. I am sure that the representative of Estonia is aware of this and of all the different related aspects.

The representative of Estonia's statement was unacceptable and runs counter to diplomatic custom. In his statement, he attacked the Sudan, its people, its Government and its President. Estonia appears to be speaking on behalf of the International Criminal Court and is taking the place of some administrator of international justice. I think that Estonia should really focus on its own domestic issues without giving sermons to anyone else. Indeed, it is only Africa that is the subject of these sermons. When we look at the situation in other parts of the world, it is silence that prevails, as if those countries are beyond criticism when it comes to justice.

We are not a State party to the ICC. We have no obligation whatsoever to the Court, in line with the Vienna Convention on the Law of Treaties. We are concerned about the fight against impunity. We want to achieve justice as a noble objective, but without politicization, selectivity or subordination to other Powers. My country therefore expresses its rejection and condemnation of the statement made by the representative of Estonia.

Mr. Maung (Myanmar): My delegation takes the floor in exercise of the right of reply to respond to the statement made by the representative of Bangladesh.

The Government of Myanmar is committed to a sustainable solution for peace, stability and development for all communities within Rakhine state. The Government of Myanmar is determined to implement the commitments we made to working until progress and success have been achieved. Rather than rebutting criticism and allegations with words, we will show the world our true intentions by our actions and deeds. Since 25 August, when the terrorist attack took place in northern Rakhine state, we have many positive developments there. Some of the more significant ones are the following.

The Advisory Commission on Rakhine State, led by former United Nations Secretary-General Kofi Annan, delivered its final report on 24 August. The Government has given the report its sincere consideration with a view to carrying out the recommendations as to the situation on the ground to the fullest extent and within the shortest time frame possible. A Ministry of Labour committee has been established to ensure that the recommendations are implemented expeditiously, and an advisory group, including three eminent figures from different regions of the world, will also soon be established.

With regard to the current humanitarian situation in Rakhine state, the Government has identified three main tasks to be undertaken promptly, namely, repatriation and the provision of humanitarian assistance to returnees, resettlement and rehabilitation of all displaced communities, and the establishment of sustainable peace, stability and development in Rakhine state. To implement the tasks, the Office of the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine was launched on 15 October. This is a partnership among the Government, the people, the private sector, local non-governmental organizations and civil-society organizations, development partners, United

Nations agencies and international non-governmental organizations. On 17 October, the Committee for the Union Enterprise, chaired by the State Counsellor, was established in order to oversee the operation of the Enterprise. The Association of Southeast Asian Nations Coordinating Centre for Humanitarian Assistance on Disaster Management is now working with the Government of Myanmar to deliver humanitarian assistance to all displaced persons.

Myanmar is collaborating with donor countries of the International Red Cross and Red Crescent Movement to provide assistance expeditiously and in accordance with humanitarian principles. We continue to maintain our cooperation with the United Nations. The Under-Secretary-General for Political Affairs, Mr. Jeffrey Feltman, recently visited Myanmar and met with the leadership of the country. He also had the opportunity to see first-hand the situation on the ground in Rakhine state. We are also harvesting the paddy fields that were abandoned by those taking refuge in Bangladesh. We have asked the World Food Programme and the Food and Agriculture Organization of the United Nations to assist in harvesting, drying and providing storage for the paddy fields. The fields will be kept for refugees in their names so that they can claim them upon their return.

The Myanmar and Bangladesh authorities are working on the voluntary, safe and dignified return of displaced persons on the basis of the 1993 agreement between the two countries. A delegation headed by the Minister for Home Affairs of Bangladesh was recently in Myanmar for discussions on the issue of repatriation and border security cooperation. During this visit, two memorandums of understanding on the establishment of border liaison posts and security, cooperation and dialogue were signed. Other bilateral engagements are ongoing.

We have been quite surprised to witness Bangladesh's approach to the issue within United Nations forum. This leads me, therefore, to question whether the Bangladesh delegation has the genuine desire to solve the issue rather than to enflame it. The challenges we face in finding a sustainable solution on the issue of Rakhine state cannot be overcome overnight. The sincere and genuine cooperation of the international community is crucial. No one can fully understand the situation of our country the way we do, and no one desires peace and development for our country more than we do. We wish for all interested parties to be part of the solution, not part of the problem.

Mr. Al Arsan (Syrian Arab Republic) (*spoke in Arabic*): At the outset, my delegation disassociates itself from any consensus regarding resolution 72/3, entitled "Report of the International Criminal Court".

I recall that the Syrian Arab Republic was one of the first countries to actively contribute to the negotiations on the Rome Statute, establishing the International Criminal Court (ICC), and one of its first signatories. However, in the face of the outcomes of the Court's selective implementation of the notion of justice, my country, Syria, decided to disassociate itself from that body, which has become a deficient and biased institution that undermines the noble notion of justice and serves the whims and interests of certain countries, ultimately evolving into a tool to undermine international relations, the principles of international law and the purposes of the Charter of the United Nations.

In their statements today, some delegations have touched on the situation in my country and raised issues that are irrelevant to the item under discussion today. They have called for so-called justice and an end to impunity in Syria through referral of the situation in Syria to the ICC and by asking the State to cooperate with the so-called International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. The statements I allude to — I refer in particular to those made by the representatives of Denmark and the United States — ignored the substantive criticism that we have heard in the past and again today from some countries about the ICC and its deliberately deficient mandate, which is limited to certain countries and issues. Today, those countries ignored the specific reasons that compelled some States to withdraw from the Rome Statute and the Court.

The political hypocrisy that we continue to see today is manifested in statements of some Governments concerning international justice and calling for the implementation of a virtual ICC mandate on the situation in Syria, whereas those same countries have signed bilateral agreements with the Government of the United States of America in order to give United States soldiers immunity from prosecution before the

ICC. As members are aware, ever since the signing of the Rome Statute and the establishment of the Court, the United States has made diplomatic efforts to reach bilateral agreements with other States, giving immunity to United States soldiers. This has resulted in the achievement of many bilateral agreements to grant such immunity to United States soldiers. We are sorry to hear representatives in many forums, including the Assembly today, speak of referring the situation in Syria to the ICC, while their own countries have signed bilateral agreements with the United States to grant immunity to the soldiers of the United States army under the mandate of the Court.

As for the International, Impartial and Independent Mechanism, the Syrian Arab Republic and other Member States refuse to recognize the Mechanism or any mandate thereof, as it only reflects the distortion of the notion of universal jurisdiction and abuses that jurisdiction in the General Assembly. It is a grave violation of the provisions of Articles 2 and 12 of the Charter of the United Nations and the provisions of others that specify the powers of the General Assembly.

I wish to cite here an example of a grave legal breach in the establishment of the Mechanism, which was granted powers and authorities that belong mainly to the national prosecutory and judicial bodies of each country. The Charter of the United Nations grants the General Assembly no power or authority related to prosecution or criminal investigations. Consequently, the General Assembly does not have the mandate to establish a body that enjoys powers and authorities that the General Assembly itself does not enjoy, let alone to establish such a Mechanism. Such authority is enjoyed exclusively by the Security Council.

Once again, I call on all members of the Assembly to read document A/71/799, which contains the text of a letter from the Chargé d'affaires a.i. of the Permanent Mission of the Syrian Arab Republic to the Secretary-General, highlighting the grave legal breaches in resolution 71/248, which established the illegal Mechanism. Syria calls on Member States to disassociate themselves from the Mechanism and to refrain from providing it with support or finance, given the fact that 80 per cent of its funding is provided by the Government of a State that does not recognize the United Nations designation of the Al-Nusra Front as a terrorist body and that continues to finance and arm the Al-Nusra Front. Therefore, a mechanism that is being funded by the same source that finances terrorism cannot be international, impartial or independent. It is a distortion of the notion of universal jurisdiction.

It is no longer acceptable for the Governments of certain States to use justice — one of the noble purposes of humankind — as a tool to interfere with the internal affairs of other States. It is no longer acceptable for justice to be a mere tool for the most powerful to exercise their power over the weak. We therefore call on the Governments that frequently speak about impunity to back up their words with actions and to hold their country's officials accountable for sponsoring, facilitating and financing the transfer of thousands of foreign terrorist fighters to my country, Syria. Everyone believes, perhaps only implicitly, that the influx of tens of thousands of those foreign terrorist fighters into Syria and Iraq was the result not of individual efforts, but rather of a well-organized scheme that operated for years. The Governments and intelligence services of many countries are implicated therein.

We also call on the Governments that speak out against impunity to hold to account the forces of the international coalition in Syria, led by the United States, which have used internationally prohibited weapons in Syria, including white phosphorus, killing thousands of civilians. They have bombed schools, bridges, infrastructure, power plants and water plants, and destroyed the city of Raqqa. With the help of supporting militia, they levelled the city and declared victory over the Islamic State in Iraq and the Sham (ISIS). The result was that the international coalition forces and their supporting militia struck a deal with ISIS whereby its fighters were moved from Raqqa to Deir ez-Zor in order to obstruct the operations of the Syrian Arab Army and its allies.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 76?

It was so decided.

The meeting rose at 5.45 p.m.